

Senate File 2132 - Enrolled

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SENATE FILE 2132

AN ACT

RELATING TO NOTICES REGARDING THE DISPOSITION OF SEIZED
PROPERTY AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 809.5, subsection 1, Code Supplement
2007, is amended to read as follows:

~~1. Seized property which is no longer required as evidence
or for use in an investigation shall be returned to the owner,
provided that the person's possession of the property is not
prohibited by law and there is no forfeiture claim filed on
behalf of the state if the property is no longer required as
evidence or the property has been photographed and the
photograph will be used as evidence in lieu of the property.
if the property is no longer required for use in an
investigation, if the owner's possession is not prohibited by
law, and if a forfeiture claim has not been filed on behalf of
the state.~~

~~a. If the aggregate fair market value of the property
is greater than five hundred dollars, the seizing agency shall
send serve notice by personal service or by sending the notice
by restricted certified mail, return receipt requested, to the
last known address of any person having an ownership or
possessory right in the property stating that the property
must be claimed within thirty days from the date of receipt of
the notice. Refusal of restricted certified mail, return
receipt requested, shall be construed as receipt of the
notice. Such notice shall state that if no written claim for
the property is filed with the seizing agency within thirty
days from the date of receipt of the notice, the property
shall be deemed abandoned and disposed of accordingly.~~

~~b. If the aggregate fair market value of the property is
equal to or less than five hundred dollars, the seizing agency
shall serve notice by personal service or by sending the
notice by regular mail to the last known address of any person
having an ownership or possessory right in the property.~~

~~c. A person having an ownership or possessory right in the
property must file a written claim for the property with the
seizing agency within thirty days from the date of receipt of
the notice and must take possession of the property within
thirty days of the expiration of the period of time for filing
a written claim. If no written claim is filed within thirty
days from the date of receipt of the notice or if a written
claim is filed but the claimant does not take possession of
the property within thirty days of the expiration of the
period of time for filing the written claim, the property
shall be deemed abandoned and shall be disposed of
accordingly.~~

~~d. The notice served or sent pursuant to this subsection
shall inform the recipient of the filing and possession
requirements of paragraph "c".~~

~~e. The seizing agency shall not release the property
to any party until the expiration of the date for filing
claims. In the event that there is more than one claim filed
for the return of property under this section, at the
expiration of the period for filing claims the seizing agency
shall file a copy of all such claims with the clerk of court
and the clerk shall proceed as if such claims were filed by
the parties under section 809.3. In the event that no owner
can be located or no claim is filed under this section for
property having a value of less than five hundred dollars, the
property shall be deemed abandoned and the seizing agency
shall become the owner of such property and may dispose of it
in any reasonable manner.~~

~~f. For unclaimed property having a value of less than five hundred dollars, In the event that
the owner is unable to be located or the property is deemed
abandoned the following shall apply:~~

~~(1) If the aggregate fair market value equal to or of the
property is greater than five hundred dollars, forfeiture
proceedings shall be initiated pursuant to the provisions of~~

3 4 chapter 809A. If the court does not order the property
3 5 forfeited to the state in the forfeiture proceedings pursuant
3 6 to chapter 809A, the seizing agency shall become the owner of
3 7 the property and may dispose of it in any reasonable manner.
3 8 ~~Unclaimed firearms and ammunition, if not forfeited pursuant~~
3 9 ~~to chapter 809A, shall be disposed of by the department of~~
3 10 ~~public safety or the department of natural resources pursuant~~
3 11 ~~to section 809.21.~~

3 12 (2) If the aggregate fair market value of the property is
3 13 equal to or less than five hundred dollars, the seizing agency
3 14 shall become the owner of the property and may dispose of it
3 15 in any reasonable manner.

3 16 (3) Notwithstanding subparagraph (2), firearms or
3 17 ammunition with an aggregate fair market value equal to or
3 18 less than five hundred dollars shall be deposited with the
3 19 department of public safety. The firearms or ammunition may
3 20 be held by the department of public safety and be used for law
3 21 enforcement, testing, or comparisons by the criminalistics
3 22 laboratory, or may be destroyed or disposed of by the
3 23 department of public safety in accordance with section 809.21.

3 24 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
3 25 immediate importance, takes effect upon enactment.

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3 30 JOHN P. KIBBIE
3 31 President of the Senate
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3 34 PATRICK J. MURPHY
3 35 Speaker of the House

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4 2 I hereby certify that this bill originated in the Senate and
4 3 is known as Senate File 2132, Eighty-second General Assembly.
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4 8 MICHAEL E. MARSHALL
4 9 Secretary of the Senate

4 9 Approved _____, 2008

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4 13 CHESTER J. CULVER
4 14 Governor